ENVIRONMENTAL TOBACCO SMOKE:

What Manitobans Said

November, 2003

Submitted to: The Manitoba Provincial Government

Submitted by: Stan Struthers, Chair, All-Party Task Force on Environmental Tobacco Smoke

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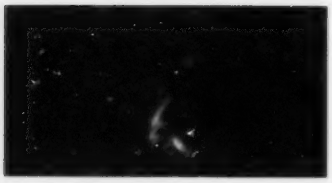
Executive Summary



The Government of Manitoba recognizes that there are diverse opinions on the issue of smoking in public and workplaces. In December 2002, the Minister of Health struck an All-Party Task Force to examine the issue of how to deal with environmental tobacco smoke (ETS) in public and workplaces. The Task Force consisted of seven MLAs as follows: four from Government Caucus; two from the Official Opposition Caucus; and, one from the Liberal Party.

The mandate of the All-Party Task Force was to do the following: study the facts; take into account the diverse opinions on the issue; gather information on the impact of measures to reduce exposure to ETS in public and workplaces - including recommendations of the Advisory Council on Workplace Safety and Health; and, produce a publicly available report with recommendations on how best to ensure Manitobans are adequately protected from environmental tobacco smoke.

Between Spring and Fall 2003, the All-Party Task Force held thirteen public hearings in twelve different communities across Manitoba (two were held in Winnipeg). The communities included the following: Virden; Brandon; Portage La Prairie; Gimli; Thompson; Boissevain; Beausejour; Selkirk; Roblin; Swan River; St. Pierre; and, Winnipeg.

The Task Force heard from a total of 225 Manitobans on the issue of ETS. Of these 225, 115 people made oral presentations. The Task Force heard from a wide variety of health related and business organizations, including local business owners, municipal officials, health care professionals, healthy community committees, teachers, students and private citizens who came to make presentations. Submissions were made via the Internet from more than 70 people. The Task Force received over 40 submissions through the mail, many of which included reports, studies and newspaper articles.

The consultation process ended on October 2, 2003 when the Task Force met with Wally Fox-Decent, Chair of the Advisory Council on Workplace Safety and Health. In May, 2003, the Advisory Council recommended a phased-in smoking ban in all indoor and outdoor workplaces. The Advisory Council's report and the public views provided a foundation of information that assisted the All-Party Task Force in developing the recommendations outlined in this report.

The recommendation of the Advisory Council on Workplace Safety and Health is consistent with what Manitobans said regarding how best to deal with ETS. Of the presentations and submissions that were made to the Task Force, the majority (approximately 70 per cent), were supportive of a province-wide smoking ban in public and workplaces. However, few of these presenters and submissions made the distinction between indoor and outdoor places as the Advisory Council on Workplace Safety and Health did.

Many people stressed that the primary goal of such legislation would not be to prevent people (members of the public or workers) from smoking, but to protect the general public and all workers from second-hand smoke. A large number of presenters (both proponents and opponents of a ban) felt that in order to create a level playing field across the province, it would be necessary for the provincial government to take leadership on the issue of ETS rather than leaving it up to municipalities. Both Winnipeg and Brandon have passed by-laws that ban smoking in most workplaces. The recent successful legal action against the Workers' Compensation Board in Ontario points to a need for provincial governments to also play a role in setting workplace smoking policy. In an unprecedented decision in late 2002, the Ontario Workers' Compensation Board accepted a claim that ETS caused a worker's lung cancer, and awarded her compensation. Some presenters cautioned against similar legal action in Manitoba, if legislation protecting workers from the effects of tobacco smoke is not implemented.

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In addition, several Manitobans (about 5 per cent) shared their personal experiences about how tobacco has affected their lives, or their friends and family. Many of these presenters did not specifically advocate or oppose a province-wide ban, but their negative feelings about the harmful effects of ETS were clearly expressed. Another 5 per cent of presenters made recommendations about specific issues related to ETS, rather than taking a position on a province-wide ban.

The minority (about 20 per cent) of presenters were opposed to a province-wide smoking ban. Even among the people who did not advocate a ban, a common theme that permeated many of their comments was a recognition that a ban was likely inevitable at some point in the future.

During the public consultation process, the Task Force was given a great deal of research, information and statistics about the nature of tobacco smoke, and the adverse health effects of first-hand and second-hand tobacco smoke. The Task Force received the clear message that ETS is a scientifically proven and universally recognized health hazard, and that the public and workers are exposed to harmful levels of ETS where smoking is permitted in enclosed public and indoor workplaces. The Task Force received very little information and advice on the issue of ETS in outdoor places. The Task Force heard from many presenters that effective tobacco control requires a comprehensive approach that includes education, prevention and cessation initiatives, in addition to the protection provided by legislation, and that many of these initiatives should be particularly targeted to youth. The Task Force heard the concerns of labour and business that they anticipate significant negative economic impacts following the implementation of a smoking ban. The Task Force also heard that the ceremonial use of tobacco should be exempted from a smoking ban, and that the aboriginal community should be consulted on an appropriate definition of ceremonial use.

Based on the information obtained through the public consultation process, the All-Party Task Force on Environmental Tobacco Smoke is recommending that the provincial government enact legislation calling for a complete ban of smoking in all enclosed public and indoor workplaces where the provincial government has clear jurisdiction, to come into effect October 1, 2004, and that a public education campaign precede the implementation date. The Task Force is recommending that the provincial government instruct the Department of Health to consult with the Advisory Council on Workplace Safety and Health in order to develop the legislation, which would deal with definitions and enforcement procedures. The Task Force is also recommending that the provincial government continue to provide appropriate resources to support education, prevention and cessation initiatives, especially those targeted at youth, as part of a comprehensive approach to tobacco control. The Task Force is recommending that the provincial government work closely with the hospitality industry to develop strategies for addressing the anticipated negative economic impacts resulting from a province-wide smoking ban. Finally, the Task Force is recommending that the ceremonial use of tobacco be exempted from the province-wide ban, and that the aboriginal community be consulted on an appropriate definition of ceremonial use.

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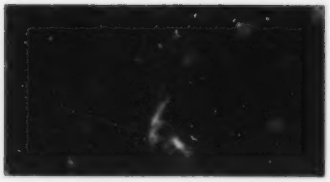


Le gouvernement du Manitoba reconnaît que la question de fumer ou non dans les lieux publics et au travail suscite des divergences d'opinion. En décembre 2002, le ministre de la Santé a formé un groupe de travail tripartite chargé d'étudier comment aborder la question de la fumée ambiante du tabac dans les lieux publics et au travail. Ce Groupe de travail était composé de sept députés, à raison de quatre du Caucus du gouvernement, deux du Caucus de l'opposition officielle, et un du Parti libéral.

Le mandat de ce Groupe de travail tripartite se résumait comme suit : étudier les faits, tenir compte des diverses opinions sur la question, recueillir de l'information sur l'incidence des mesures visant à réduire le contact avec la fumée ambiante du tabac dans les lieux publics et au travail (notamment les recommandations du Conseil consultatif sur la sécurité et l'hygiène du travail) et, enfin, produire un rapport accessible au public et contenant des recommandations sur la meilleure manière d'assurer la protection des Manitobains contre la fumée ambiante du tabac.

Entre le printemps et l'automne 2003, le Groupe de travail tripartite a tenu treize audiences publiques dans douze localités du Manitoba (dont deux audiences à Winnipeg) : Virden, Brandon, Portage-La-Prairie, Gimli, Thompson, Boissevain, Beauséjour, Selkirk, Roblin, Swan River, Saint-Pierre-Jolys et Winnipeg.

Le Groupe de travail a entendu au total 225 Manitobains sur cette question de la fumée ambiante du tabac. Parmi eux, 115 personnes ont présenté un exposé oral. Le Groupe de travail a entendu un vaste éventail d'organismes représentant le milieu des affaires et de la santé, notamment des propriétaires d'entreprises locales, des représentants municipaux, des professionnels de la santé, des comités de promotion de la santé dans les collectivités, des enseignants, des étudiants et des particuliers qui sont venus présenter un exposé. En outre, plus de 70 personnes ont présenté leur mémoire par la voie de l'Internet. Le Groupe de travail a reçu plus de 40 mémoires par la poste, dont un grand nombre comportait des rapports, des études et des articles de journaux.

Ces consultations ont pris fin le 2 octobre 2003, lorsque le Groupe de travail a rencontré Wally Fox-Decent, président du Conseil consultatif sur la sécurité et l'hygiène au travail. En mai 2003, le Conseil consultatif a recommandé que l'on interdise progressivement le tabac dans tous les milieux de travail, que ce soit à l'intérieur ou à l'extérieur. Le rapport du Conseil consultatif et les opinions du public ont fourni des renseignements de base qui ont aidé le Groupe de travail tripartite à formuler les recommandations énoncées dans le présent rapport.

La recommandation du Conseil consultatif sur la sécurité et l'hygiène au travail correspond à ce que les Manitobains ont dit de la meilleure façon de traiter la question de la fumée ambiante du tabac. Parmi les exposés et mémoires présentés au Groupe de travail, la majorité (environ 70 %) étaient en faveur de l'interdiction du tabac dans tous les lieux publics et milieux de travail de la province. Toutefois, peu de ces exposés et mémoires ont fait la distinction établie par le Conseil consultatif sur la sécurité et l'hygiène au travail entre les lieux extérieurs et intérieurs.

Bon nombre de personnes ont souligné que l'objectif premier d'une loi de ce type ne consistait pas à empêcher les gens (membres du public ou travailleurs) de fumer, mais à protéger le grand public et tous les travailleurs contre la fumée secondaire.

Un grand nombre de personnes (à la fois favorables et opposées à une interdiction) étaient d'avis que, pour offrir des chances égales à tous dans l'ensemble de la province, il faudrait que le gouvernement provincial prenne cette question de la fumée ambiante du tabac en main plutôt que de la confier aux municipalités. Tant Winnipeg que Brandon ont adopté des règlements qui interdisent le tabac dans la plupart des milieux de travail. La poursuite récemment gagnée contre la Commission des accidents du travail a mis en relief la nécessité que les gouvernements

provinciaux interviennent également dans l'instauration d'une politique en matière de tabagisme en milieu de travail. À la fin de 2002, dans une décision sans précédent, ladite Commission a accepté une plainte alléguant que la fumée ambiante du tabac avait causé le cancer du poumon chez une travailleuse à qui elle a accordé une indemnité. Certains exposés comportaient la mise en garde suivante : si la loi protégeant les travailleurs contre les effets de la fumée du tabac n'est pas appliquée, d'autres poursuites du même type pourraient être intentées au Manitoba.

En outre, plusieurs Manitobains (environ 5 %) ont livré leurs expériences personnelles illustrant comment le tabac avait nui à leur vie, à celle de leurs amis et de leur famille. Nombre de ces personnes qui ont présenté un exposé ne se sont pas prononcées précisément pour ou contre une interdiction à l'échelon de la province, mais elles ont exprimé clairement leurs sentiments négatifs sur les effets nocifs de la fumée ambiante du tabac. La même proportion de personnes qui ont présenté un exposé (5 %) ont formulé des recommandations sur des aspects particuliers de la fumée ambiante du tabac, plutôt que de prendre position sur une interdiction à l'échelon de la province.

Une minorité (environ 20 %) d'exposés étaient contre l'interdiction du tabac partout dans la province. Même parmi les personnes qui n'ont pas préconisé cette interdiction, un thème commun ressortait souvent dans leurs commentaires : elles reconnaissaient qu'une interdiction serait sans doute inévitable un jour ou l'autre.

Au cours des consultations publiques, le Groupe de travail a reçu beaucoup de recherches, d'information et de statistiques sur la nature de la fumée du tabac et sur les effets nocifs pour la santé de la fumée principale et secondaire du tabac. Le Groupe de travail a reçu un message clair : la fumée ambiante du tabac constitue un danger pour la santé qui est scientifiquement prouvé et universellement reconnu, et le public et les travailleurs sont en contact avec des quantités nocives de fumée ambiante du tabac dans les endroits fermés et les milieux de travail intérieurs où il est permis de fumer. Le Groupe de travail a entendu de nombreux exposés indiquant qu'une véritable lutte contre le tabagisme exige une intervention globale qui comporte des initiatives d'éducation, de prévention et d'interruption, outre la protection prévue par la loi, et que nombre de ces initiatives devraient surtout viser les jeunes. Le Groupe de travail a également entendu les préoccupations des syndicats et du milieu des affaires qui entrevoient des incidences économiques négatives importantes si l'interdiction de fumer entre en vigueur. Le Groupe de travail a également pris note du commentaire suivant : l'usage cérémoniel du tabac devrait échapper à cette interdiction, et il faudrait consulter la communauté autochtone pour formuler une définition appropriée de l'usage cérémoniel.

D'après l'information recueillie dans le cadre de ces consultations, le Groupe de travail tripartite sur la fumée secondaire du tabac recommande que le gouvernement provincial édicte une loi exigeant qu'une interdiction absolue de fumer dans tous les lieux publics et milieux de travail intérieurs où le gouvernement provincial a clairement compétence entre en vigueur le 1er octobre 2004, et qu'une campagne de sensibilisation du public soit menée avant l'entrée en vigueur de cette mesure. Le Groupe de travail recommande que le gouvernement provincial ordonne au ministère de la Santé de consulter le Comité consultatif sur la sécurité et l'hygiène au travail pour rédiger la loi, qui comporterait des définitions et préciserait les procédures d'application. Le Groupe de travail recommande également que le gouvernement provincial continue de fournir des ressources appropriées pour les initiatives d'éducation, de prévention et d'interruption, surtout celles qui visent les jeunes, dans le cadre d'une optique globale de lutte contre le tabagisme. Le Groupe de travail recommande que le gouvernement provincial collabore étroitement avec l'industrie du tourisme d'accueil pour élaborer des stratégies qui permettront de contrer les incidences économiques négatives que l'on prévoit si l'on interdit le tabac dans l'ensemble de la province. Enfin, le Groupe de travail recommande que l'usage cérémoniel du tabac échappe à l'interdiction provinciale, et que l'on consulte le milieu autochtone sur une définition appropriée de cet usage cérémoniel.

1 Background & Context

Definition of Environmental Tobacco Smoke

Environmental Tobacco Smoke (ETS), also known as "second-hand smoke," is made up of the smoke that comes from the burning end of a cigarette, pipe or cigar (called sidestream smoke) and the smoke that is exhaled from the smoker (called mainstream smoke) (National Cancer Institute [NCI], 2003). Second-hand smoke has twice as much nicotine and tar as the smoke that smokers inhale, and five times the carbon monoxide (Health Canada, 2002). Evidence shows that nonsmokers who are exposed to ETS absorb nicotine and other compounds just as smokers do (NCI, 2003).

The All-Party Task Force on Environmental Tobacco Smoke

The Government of Manitoba recognizes that there are diverse opinions on the issue of smoking in public and workplaces. In December 2002, in speaking to Bill 200, *The Smoke-Free Places Act*, the Minister of Health struck an All-Party Task Force to examine the issue of how to deal with ETS in public and workplaces. The Task Force consisted of seven MLAs as follows: four from Government Caucus; two from the Official Opposition Caucus; and, one from the Liberal Party. The members were: Honourable Stan Struthers, Minister of Conservation and MLA for Dauphin-Roblin (Chair); Honourable Scott Smith, Minister of Industry, Economic Development and Mines and MLA for Brandon West; Honourable Jim Rondeau, Minister of Healthy Living and MLA for Assiniboia; Greg Dewar, MLA for Selkirk; John Loewen, MLA for Fort Whyte; Denis Rocan, MLA for Carman; and, Jon Gerrard, MLA for River Heights.

The mandate of the All-Party Task Force as agreed to in the terms of reference was to do the following:

- study the facts;
- take into account the diverse opinions on the issue;
- gather information on the impact of measures to reduce exposure to environmental tobacco smoke in public and workplaces - including recommendations of the Advisory Council on Workplace Safety and Health; and,
- produce a publicly available report with recommendations on how best to ensure Manitobans are adequately protected from environmental tobacco smoke and including recommendations for implementation of these policies.

Public Consultation Process

Between Spring and Fall 2003, the All-Party Task Force held thirteen public hearings in twelve different communities across Manitoba (two were held in Winnipeg). The communities included the following: Virden; Brandon; Portage La Prairie; Gimli; Thompson; Boissevain; Beausejour; Selkirk; Roblin; Swan River; St. Pierre; and, Winnipeg.

The Task Force heard from a total of 225 Manitobans on the issue of ETS. Of these 225, 115 people made oral presentations. The Task Force heard from a wide variety of health related and business organizations including RHAs, the Canadian Cancer Society, the Manitoba Lung Association, the Manitoba Tobacco Reduction Alliance, The Manitoba Federation of Labour, the Royal Canadian Legion, Chambers of Commerce, and the Manitoba Hotel Association to name only a few. The Task Force also heard the personal experiences and ideas of local business owners, municipal officials, health care professionals, healthy community committees, teachers, students and private citizens who came to make presentations. Submissions were made via the Internet from more than 70 people. The Task Force received over 40 submissions through the mail. Many of these submissions included reports, studies and newspaper articles (over 50 such documents were received).

Advisory Council on Workplace Safety and Health

The consultation process ended on October 2, 2003 when the Task Force met with Wally Fox-Decent, chair of the Advisory Council on Workplace Safety and Health. In May, 2003, the Advisory Council recommended a phased-in smoking ban in all indoor and outdoor workplaces (see Appendix A). The Advisory Council's report and the public views provided a foundation of information that assisted the All-Party Task Force in developing the recommendations outlined in this report.

During the public consultation process, the Task Force was given a great deal of research, information and statistics about the nature of tobacco smoke, and the adverse health effects of first-hand and second-hand tobacco smoke. Some of the significant numbers and messages put forward were as follows:

Tobacco Facts

- Tobacco smoke contains over 4000 chemicals, at least 50 of which are known carcinogens (e.g., benzene, cyanide, formaldehyde, lead, and DDT) (Physicians for a Smoke-Free Canada [PSFC], 1999).
- At least two products in tobacco smoke are illegal to manufacture in Canada because of their toxicity (PSFC, 1999).
- Tobacco smoke clings to everything (e.g., food, furnishings, skin, clothing), and the irritants it produces are present long after the smokers have left (Health Canada, 2002).

Statistics

- Manitoba consistently has one of the highest per capita rates of tobacco use in the country. Statistics from the Canadian Tobacco Use Monitoring Survey show that 26 per cent of all Manitobans smoke, 28 per cent of all Manitobans aged 15-19 smoke, 37 per cent of those aged 20-24 smoke, and 30 per cent of all those aged 25-44 smoke (Health Canada, 2001). In the latest Statistics Canada report, youth smoking is down in Manitoba from 28 per cent in 2001 to 23 per cent in 2002. In 2002, Manitoba led the nation in the number of people quitting smoking with 45,000 Manitobans deciding to quit.
- In 1996, smoking remained the number one preventable cause of death and disease in Canada (Makomaski Illing & Kaiserman, 1999).
- Smoking is responsible for one in five deaths in Canada - about five times the number of deaths caused by motor vehicle injuries, suicides, drug use, homicide and AIDS combined (PSFC, 2003).
- There are over 45,000 smoking related deaths in Canada each year and the number is still growing (29,000 men, 16,000 women and 100 infants) (PSFC, 2003).
- Over 1800 Manitobans die each year from smoking (Ellison, Mao & Gibbons, 1995).
- Smoking rates and smoking deaths among women continue to increase. Every 35 minutes a Canadian woman dies as a result of smoking. Canada has the 7th highest rate of women's smoking in the world, according to the World Health Organization. For men, Canada ranks 73rd (PSFC, 2003).
- Over 1000, and possibly as many as 7800 Canadians are estimated to be killed by second hand smoke each year (PSFC, 2001b). This includes an estimated 150 Manitobans.
- Smoking attributable costs (i.e. health care, residential care, workers' absenteeism, fires and lost future income due to premature death) in Canada have increased steadily since 1966 to the 1991 value of $15 billion (Kaiserman, 1997). In early 2000, Dr. Kaiserman, of Health Canada, reviewed existing data provided by Manitoba Health and estimated that the direct health care costs of tobacco use in this province are approximately $130 million annually.

Health Effects

- The Ontario Medical Association (2003) states that, "The overwhelming body of medical evidence contained in hundreds of scientific studies and six internationally recognized comprehensive reviews undertaken during the last decade clearly demonstrates the direct causes and linkages between exposure to second-hand smoke and serious health effects among non-smokers." The University of Toronto, Ontario Tobacco Research Unit (2001) notes further that, "Few issues have been subject to as many scientifically rigorous reviews as Second Hand Smoke (SHS). Recommendations in the reports of major scientific reviews have been expressed in many different ways. However, the message from all of them is clear, consistent and unanimous: All involuntary exposure to tobacco smoke is harmful and should be eliminated."

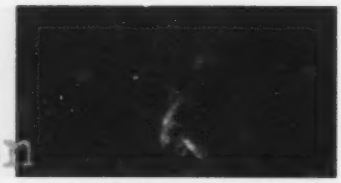
- SHS causes heart disease, lung cancer and nasal sinus cancer in adults. Children are particularly vulnerable to SHS because their lungs are still growing and developing. In children, SHS is known to cause SIDS, low birth weight, bronchitis, pneumonia and other lower respiratory tract infections, asthma exacerbation, middle ear disease and respiratory symptoms (University of Toronto, 2001).

- Exposure to SHS has also been linked to stroke, breast cancer, cervical cancer and miscarriages in adults. In children, SHS is linked to adverse impact on cognition and behaviour, decreased lung function, asthma induction and exacerbation of cystic fybrosis. In the short term, SHS irritates the eyes, throat, nose and lungs, triggers allergic reactions, and causes headaches, sore throats, nausea and dizziness (University of Toronto, 2001)

- One in five Canadians has a pre-existing health condition (e.g., heart or lung condition or allergies) that can be aggravated by exposure to SHS (Manitoba Lung Association, [n.d.]).

- SHS has cumulative negative effects on smokers as well as non-smokers. Whether one is a smoker or a non-smoker, a significant improvement in lung function and a reduction in respiratory symptoms will occur among workers in a smoke-free environment after a ban is implemented (Manitoba Medical Association, 2003; Ontario Medical Association, 2003).

3 What the Advisory Council on Workplace Safety and Health Said



The Advisory Council on Workplace Safety and Health recently reviewed its policy and practice with respect to tobacco smoke as part of a larger review of workplace safety and health regulations. After a lengthy consultation process involving business, labour, and employees, in May 2003, the Advisory Council recommended that the provincial government work towards achieving a complete ban of smoking in all workplaces through a three-stage process (see Appendix A). Because tobacco smoke is not a work requirement, the Advisory Council concluded that exposure to ETS is most readily and easily prevented by eliminating the hazard from the work environment.

4 What Manitobans Said

The Advisory Council on Workplace Safety and Health's recommendation of a smoking ban in all workplaces is consistent with what Manitobans said regarding how best to deal with ETS. Of the presentations and submissions that were made to the Task Force, the majority (approximately 70 per cent), were supportive of a province-wide smoking ban in public and workplaces. However, few of these presenters and submissions made the distinction between indoor and outdoor places, as the Advisory Council on Workplace Safety and Health did.

In addition, several Manitobans (about 5 per cent) took the time to share their personal experiences about how tobacco has affected their lives or the lives of their friends and family. Although many of these presenters did not specifically advocate or oppose a province-wide ban, their negative feelings about the harmful effects of ETS were clearly expressed. Another 5 per cent of presenters made recommendations about specific issues related to ETS rather than taking a position on a province-wide ban.

The minority (about 20 per cent) of presenters were opposed to a province-wide smoking ban. Even among the people who were not advocates of a ban, a common theme that permeated many of their comments was a recognition that a ban was likely inevitable at some point in the future.

The arguments that were put forward regarding whether or not the provincial government should proceed with a province-wide smoking ban can be grouped by nine themes as presented next.

1. Workplace Safety and Health Regulations

Several presenters noted that full compliance with the *Manitoba Workplace Safety and Health Act* would require eliminating tobacco smoke from Manitoba workplaces (PSFC, January, 2001a). The regulations under the Act list 25 chemicals that are found in cigarette smoke. Manitoba law requires that the occupational exposure limit for these chemicals shall be "as close to zero as reasonably practicable." At least two chemicals found in cigarette smoke are known human carcinogens for which there is no safe level of exposure. The Workplace Health Hazard Regulation RM 53/58 says that no worker should be exposed to such substances. According to current Manitoba Labour law, the chemicals listed are dangerous, potent carcinogens that must not be present in any workplace, but they are allowed if they come from the end of a cigarette. Many presenters echoed the sentiment of the Advisory Council on Workplace Safety and Health, when they suggested that banning tobacco smoke altogether is the easiest and most practical way to eliminate the hazard it presents from the work environment.

> *"Banning smoking is an established 'reasonably practicable' measure to reduce exposure to cigarette smoke chemicals to zero."*

2. Phased-in Approach

Some people and organizations (including the Advisory Committee on Workplace Safety and Health) suggested that there should be a phased-in approach. Some presenters made this recommendation because they felt that the public and employees needed time to adjust to the idea, and to prepare for the ban (for example, some employees or members of the public might want to pursue cessation efforts). Some presenters also felt that time was needed for businesses to engage in education and awareness raising with patrons and employees. Some presenters felt that time was needed so that the details around enforcement could be worked out, particularly in rural areas.

The majority of people commenting on implementation dates, however, indicated that the issue has been debated long enough and that a phased-in approach is unnecessary. Some people suggested further that, given the situation in Brandon and Winnipeg, a province-wide

ban is anticipated. Another sentiment expressed by several members and representatives of the business community was that too long of a transition would work to the disadvantage of Brandon and Winnipeg, which already have outright bans.

"The great majority of Manitobans are ready for this and are, in fact, expecting it. On this issue, they're ahead of government."

3. Rights

Many presenters put forward arguments having to do with rights, i.e. the rights of smokers, the rights of non-smokers, and the rights of business owners.

One of the most common arguments put forward by those opposed to a province-wide smoking ban is the fact that tobacco is a legal substance, and there should be a public place where people can go to use it. Several presenters argued that a province-wide ban would be "undemocratic," and "an infringement on the individual rights and freedoms of smokers." The second point most commonly made by people who hold this view is that individuals should have the freedom of choice to decide which establishments they wish to patronize, and that this process would be facilitated if establishments posted clearly visible signs indicating whether or not smoking is allowed.

"In our democratic society, a non-smoker has the freedom to choose to enter a beverage room where there's cigarette smoke, they don't have to go in. Surely the smoker has the freedom to buy and enjoy a legal product in at least one public place."

Several presenters expressed their frustration over the fact that a province-wide smoking ban is being debated, yet tobacco is a legal product (this is closely tied to the smokers' rights debate). Many of these same people suggested that if tobacco is really as harmful as everybody says it is, then the government should ban the sale of cigarettes altogether. A few people went on to note the apparent contradiction of a situation where government might ban the use of tobacco in certain settings, while continuing to benefit from cigarette tax revenue.

In addition to being an infringement on smokers' rights, the majority of people opposed to a ban also felt that smoking bans are an unreasonable intrusion into private enterprise. It was argued that it is the right of business owners to decide whether or not they want their establishments to be smoke-free.

"Restaurants, bars and the like are not truly public spaces. They are private property where the owner invites the public. If management has the right to refuse service to anyone for various reasons then it should be up to the individual owners what is allowed in their place of business (provided it is not a criminal offence)."

It was further suggested that the service industry will adapt to the desires of the clientele...that is, the business owner will strive to meet the expressed needs of his/her customers, whether they want smoke-free or not. It was proposed that as the number of non-smokers keeps growing, non-smoking bars will appear, because such ventures will be profitable.

Hand-in-glove with the argument about leaving the issue to market forces was the contention put forward by a handful of presenters that smoke-free public places should be the result of social trends, not regulation. These people suggested that smoking rates are declining over time, and, if left alone, smoking will eventually become a non-issue, and the hospitality industry will adapt accordingly.

Many people challenged the position that smoking will eventually become a non-issue. These presenters noted that while there may have been slight decreases in smoking rates in Canada over the past several years, these decreases have not been fast enough or significant enough, given the seriousness of the existing health threat. Some of these same people suggested that the reason smoking rates have declined is due to the tobacco control measures undertaken by various levels of government over the past decade, aimed at prevention, education, protection and denormalization. Many of these presenters suggested that, as smoking rates decline further, even greater effort will be required in order to continue achieving progress.

The most common argument put forward by supporters of a province-wide smoking ban was the position that people only have a right to smoke in so far as it does not affect somebody else's right to not inhale their second hand smoke. Several people described the negative health effects they experience when they are exposed to second-hand smoke (e.g., coughing, pneumonia, and asthma attacks), and noted that the presence of smoke in public places has added to their health problems, and severely limited their social lives.

> ***"Smoking is still legal in Canada, and I have no problem with people who want to smoke. I only want the right to choose whether or not I do."***

4. Level Playing Field

A wide variety of presenters from a broad range of perspectives (including health professionals, municipal leaders and local business people to name only a few) indicated that, given the existence of smoking by-laws in Winnipeg and Brandon, a level playing field would be much preferred to the patchwork of municipal by-laws that currently exist. This sentiment was expressed by both proponents and opponents of a province-wide ban. All three major Chambers of Commerce (Brandon, Winnipeg and Manitoba) passed no judgment on the morality of smoking or the desirability of a province-wide smoking ban, but recommended consistency across the province with respect to policies on ETS so that, as the Brandon Chamber of Commerce put it, "the competitive arena is level."

Many people observed that the 30 per cent of Manitobans not currently living under a smoking ban have the same right to clean air as do the other 70 per cent who are protected by Winnipeg and Brandon's smoking by-laws. Several presenters noted that all of the reasons Winnipeg's ban was put in place also apply to the rest of the province.

> ***"It should not matter if I am in Winnipeg, Brandon, or any other community in Manitoba, my family deserves to be protected from the hazards of second-hand smoke."***

5. Leadership

Many presenters pressed upon the Task Force that the provincial government has both a moral and legal responsibility to protect all Manitobans from the harmful and very dangerous effects of second-hand smoke. Some presenters argued that if Manitoba becomes the first province to go smoke-free, other jurisdictions will follow. Many presenters also commented on the responsibility adults have to protect children from the hazards of ETS.

> ***"Children are not in the position to be able to control their environment, so it is up to the adults in charge to make important decisions for them."***

In showing such leadership, several presenters argued that the government would be moving with the current tide of social change.

The responsibility to regulate smoking has been primarily held by municipal governments. Both Winnipeg and Brandon have passed by-laws that ban smoking in most workplaces. However the recent ruling by the Workers' Compensation Board in Ontario points to a need for provincial governments to also play a role in setting workplace smoking policy. Many presenters referred to the situation of Heather Crowe, who is a 57-year old woman who spent her entire 40-year career working in the hospitality sector, mostly as a waitress. She is now dying from lung cancer as a result of her exposure to second-hand smoke. In an unprecedented decision in late 2002, the Ontario Workers' Compensation Board accepted her claim that ETS caused her lung cancer, and awarded her compensation. Some presenters cautioned against future legal action in Manitoba similar to that of Heather's, if legislation protecting workers from the effects of tobacco smoke is not implemented.

Although a few people suggested that municipalities should continue to be able to make their own decisions about ETS, the great majority of private citizens and municipal officials the Task Force heard from urged the provincial government to take action. These same people noted that municipalities find it difficult to do it on their own because this is a controversial issue that pits municipalities, councilors, and community members against each other, many of whom have important personal relationships.

> ***"The smoking issue has proven to be very divisive in at least two instances in our small community. In order to protect our citizens, a policy, which prohibits smoking in public places, must be enforced on a province-wide basis."***

Many presenters suggested that social change is always difficult, and several pointed to the initial controversy of seatbelt laws which have since been proven to have saved many lives. Several people noted that negativity towards the idea of smoking bans is borne largely out of fear, but suggested that people will adapt quickly.

6. Economic Impact

Several presenters pointed to the correlation between bar and VLT patrons and smoking, and predicted a decline in tourism, Video Lottery Terminal (VLT) revenue and overall patronage of bars, restaurants and bowling alleys in the event of a province-wide smoking ban.

The Manitoba Hotel Association (MHA) explained that at the beginning of the 1990s rural Manitoba hotels were the first siteholders in Canada for VLTs, because the Provincial Government recognized that rural hotels needed a new source of revenue to exist. The MHA noted further that

the VLT program has been successful on many fronts. Firstly, it saved many rural hotels, secondly it provided much needed capital to repair and renovate, and thirdly it has been the backbone of hotel development throughout the province.

The MHA presented statistics to the Task Force that said that over the first three months of the smoking ban in Brandon (starting in September, 2002), VLT traffic dropped 18 per cent, and that over the following three months, VLT traffic was down even more (i.e. 30 per cent). More than one presenter estimated the actual loss in VLT revenue in Brandon to equal approximately $3 million a year. Some of these same presenters went on to say that since Brandon represents 5 per cent of the population of Manitoba, they would predict a loss in VLT revenue across the entire province totaling approximately $60 million a year if a province-wide smoking ban was implemented.

In a January, 2003 presentation to the Winnipeg Chamber of Commerce, the MHA indicated that the negative financial impact of Brandon's smoking ban was being felt throughout the hospitality sector and beyond. The MHA pointed to the example of a local egg supplier who had advised Brandon City Council that their deliveries to Brandon were off significantly, as an indicator of how far reaching the impact of the ban was. The MHA described how a group of businesses including restaurants, hotel, bars, billiard rooms, Veterans Associations and bowling alleys had supplied councilors and the Mayor with their "disastrous financial results" for the first three months of the ban, reporting reductions of 30-70 per cent of gross revenue. The MHA also pointed to a Probe Research survey of 400 Brandon adults reported in December, 2002, that seemed to support this position. The survey indicated that in the first three months of the smoking ban being in effect, smokers had cut back visits to the City's licensed restaurants and bars by 55 per cent, but that non-smokers had not made any significant increase in their number of visits. Some presenters noted that Manitoba Liquor Control Commission statistics in the Brandon market also show that purchases by bars were down 20 per cent in September 2002.

Other presenters noted that the Provincial Government is also affected by the decline in bar and VLT traffic in Brandon, because it is receiving significantly less revenue from VLT play, liquor taxes and PST remittances by the affected businesses. Several presenters questioned how the Provincial Government was going to make up for the anticipated loss of tens of millions of dollars in revenue if a province-wide smoking ban is implemented.

People in rural Manitoba described the uniqueness of their situation as compared to Winnipeg or Brandon, noting that it will be easier for larger chain establishments to absorb large losses in revenue than it will be for smaller independent operations. Some presenters noted further that a ban would be particularly harmful to establishments in very small communities where there is only "one game in town." Some presenters explained that people will choose to buy a case of beer and go to their friends' garage to smoke, or stay home, rather than go out to a public bar or restaurant. Several presenters argued that although restaurants may find it easier to reinvent themselves, such a ban would hit bars and bowling alleys particularly hard, especially in rural Manitoba, because the percentage of bar patrons who smoke is much higher than the general population. Presenters in northern Manitoba noted their disproportionately high rates of smoking, and business owners (especially managers/owners of bars and bowling alleys) in the North expressed great concern about potential economic losses as a result of a province-wide ban.

"The decision to go non-smoking has been in the mix for many years, in fact many hotels have gone non-smoking in many areas of their operations. However at this time the overriding feeling is that this is not the time for their bar areas to go non-smoking. Some have tried and have gone back to permitting smoking."

In response to the position that a smoking-ban would have negative economic consequences, many presenters pointed to the following research which shows that in jurisdictions where smoking bans have been implemented, bars and restaurants experienced an initial decline in revenue but eventually increased to or in many cases surpassed pre-ban revenues:

- In a recent article by Scollo, Lal, Hyland and Glantz (2003), the entire body of literature (almost 100 studies) on this subject was reviewed up to August 31, 2002. This article assesses the quality of the studies and their conclusions. The authors conclude that policymakers can act to protect workers and patrons from the toxins in secondhand smoke confident in rejecting industry claims that there will be an adverse economic impact. An interesting finding in this review is that all of the studies that reported a negative economic impact related to smoke-free policies were funded by the tobacco industry, and none of these studies met all the accepted scientific criteria for quality.

- Physicians for a Smoke-Free Canada (2001e) completed a summary of research on the economic impact of smoking restrictions. Of the sixteen individual studies that it reviewed, it found that in all cases there was no evidence to suggest that smoke-free ordinances had detrimental effects on either restaurant or bar sales or tourism. This review also found that in some cases business and tourism increased after smoke-free ordinances were implemented.

- The report by GPI Atlantic (2001), who was commissioned by the Nova Scotia Department of Health to study the economic impact of smoke-free workplaces, similarly concluded that smoke-free legislation has no adverse impact on business and may in fact be good for business.

- A study by KPMG (2002) on the economic impact of the smoke-free by-laws on the hospitality industry in Ottawa concluded that the smoke-free by-law there has had little or no negative impact on the hospitality industry as a whole (including restaurants, bars, hotels, and tourism), and that in some cases revenues increased following smoke-free legislation.

Some presenters suggested that although the predominant and overriding benefit of smoke-free public places and workplaces is improved health protection for people who work in and attend these shared places, there are additional benefits to smoke-free places which should be noted. They proposed that smoke-free indoor environments require less cleaning, maintenance and repairs, that their fire insurance premiums are often lower, and that heating and cooling costs may be reduced due to less aggressive ventilation requirements.

7. Improved Ventilation/ Designated Smoking Rooms

Some people and organizations suggested that the establishment of a standard and verifiable minimum level of air quality rather than a blanket ban would best meet the health concerns and interests of all Manitobans. Some people pointed to the willingness of the Manitoba hospitality industry to provide cleaner air through state of the art ventilation and air purification systems, and designated smoking rooms (DSRs). Such rooms allow smoking under conditions that separate the air where smoking is allowed from the non-smoking area. Several presenters pointed to the situation in BC where standards

have been set for designated smoking rooms with improved ventilation systems based on negative air pressure principles for patrons and workers. Some suggested service-free rooms be established in bars and legions in order to allow patrons to smoke but still protect workers.

In response to these suggestions, several presenters noted that many governments and health organizations have provided clear explanations as to why ventilation technology and designated smoking rooms do not work. In terms of ventilation technology, presenters noted that in order to completely clear the air of all tobacco smoke residue and therefore reduce the carcinogenic risk to acceptable levels, the ventilation rates would need to be improved 270 times, which would "create a virtual windstorm indoors" (American's for Nonsmoker's Rights, cited in PSFC, 2001d). Many presenters said that scientific bodies have tried to find an acceptable ventilation standard, but these same bodies have estimated that even under optimal conditions (i.e. use of newer methods such as displacement ventilation) only 90 per cent of the smoke could be removed (PSFC, 2001c). These presenters noted that new ventilation technology (if operated and maintained properly) can therefore remove a significant proportion, but they pointed out, however, that the nose test is not an accurate one - just because the air is not blue, does not mean there are not harmful toxins present. Several presenters expressed concern that ventilation systems may even delude non-smokers into a false sense of protection. A few presenters noted that, in addition to the limitations of the technology, there are questions around who tests the units for air quality and exposed smoking particulate matter left over, and who certifies that such units are installed, maintained and cleaned appropriately on a timely and scheduled basis.

Many presenters argued that, from a health point of view, designated smoking rooms (DSRs) also fall short of the health protection that is warranted. Some presenters explained that, if ventilation is temporarily disrupted or in poor repair, or doors are opened frequently (such as when customers enter and exit), smoke drifts throughout the establishment. Other presenters noted that, even if DSRs are service-free, workers will still have to enter the rooms to clean and maintain them, and to attend to any problems that may arise.

Several presenters observed that designated smoking rooms have been shown to cause complications in other jurisdictions and are not supported by any major health organizations. Other presenters noted that there are no accepted standards to reference for performance of DSRs. It was noted that the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) sets standards for ventilation rates. These are the industry norms throughout North America and many other parts of the world. Several presenters told the Task Force that ASHRAE updated their standards in 1999 to indicate that there is "no safe level of exposure to second-hand smoke" (PSFC, 2001c).

There were many reasons provided as to why ventilation technology and DSRs do not work, but the majority of presenters who were opposed to these strategies concluded that, given that there are no known safe levels of second-hand smoke, and no known ventilation systems that will reduce the levels to zero, these strategies are ineffective means of protecting the public and workers from second-hand smoke.

"No agency involved in setting occupational exposure limits has found an acceptable level of exposure to second-hand smoke."

8. Prevention, Education & Cessation

Several Manitobans strongly suggested that more resources should be put towards prevention, education, and cessation efforts rather than legislation, because more could be accomplished this way in terms of reducing smoking rates. Some people thought that it made more sense to prevent people from starting to smoke in the first place, rather than trying to regulate the activity. Some presenters argued that bans just move the smokers and do not eliminate the smoke. Views seemed to be split evenly as to whether or not increasing the cost of cigarettes would deter people from starting or continuing to smoke.

In addition to the more general recommendation regarding prevention, the following specific suggestions were made by a few presenters as to how smoking can be prevented and the public (particularly youth) can be more protected:

- Clearly indicate on all employment applications that the establishment is a smoking one, and let people choose whether or not they want to work there;
- Sell cigarettes only at MLCC outlets; and,
- Raise the smoking age to 19 so that it is no longer on school grounds.

Many presenters indicated that while prevention, education and cessation are important components of an effective tobacco control strategy, provincial smoke-free legislation would be a fundamental part of a comprehensive approach to tobacco control.

> ***"Education and example are the strongest catalysts to change how adults and children perceive smoking while strategy and policy are necessary to protect all Canadians from environmental tobacco smoke."***

9. Health Issue is Paramount/Health Benefits

A powerful theme that ran through many of the presentations was that, with respect to ETS the health issue is paramount. Others noted further that ETS exposure is a public health hazard that is entirely preventable.

> ***"ETS is a public health issue not an economic issue."***

Several presenters suggested that, besides protecting the health of non-smokers, smoke-free spaces create supportive environments for smokers who want to quit. It was explained that public policy which eliminates second-hand smoke from all indoor places and workplaces prevents addiction by reducing visibility of smoking in society, and assists smokers with cessation by increasing the intervals between cigarettes, and reducing the cues and opportunities to smoke.

> ***"[A smoking ban would] make the healthy choice the easy choice."***

Many presenters, particularly health care professionals, indicated that if a smoking ban were implemented, cost savings will be realized in the health care system in the short-term (fewer emergency room visits from adults and children with asthma), medium-term (fewer in-hospital treatments for adults with heart and respiratory conditions) and long-term (decreased cancer rates). Several presenters pointed to a piece of research done in Helena, Montana (Smoking: Heart attacks drop after ban, 2003). In this research it was noted that "Heart attacks fell by more than half in the summer of 2002 after voters passed a broad indoor smoking ban, suggesting that cleaning up the air in bars and restaurants quickly improves health for everyone." The ban lasted for six months until enforcement was suspended after a legal challenge. After smoking returned to bars, restaurants and other public places, heart attacks climbed back to their usual level.

Several presenters also suggested that a smoking-ban is public policy that is consistent with the government's goal to move from a reactive and acute care focused health care system to one that supports health promotion and disease prevention to a greater extent. Presenters noted that this in turn will ultimately improve the quality of life and well-being of Manitobans, and reduce smoking-related costs to the health care system.

A strong message that came through in many of the submissions was the need to prohibit smoking in public places in order to 'denormalize' the activity for everyone, but especially for children. It was explained that denormalization occurs by sending a strong signal that smoking and exposing others to second-hand smoke is not healthy or socially acceptable. Several presenters suggested that if children grow up in a supportive environment where tobacco is not seen as glamorous and socially acceptable they will be less likely to start smoking.

> ***"With smoking being so widely accepted and displayed, it's hard for us to understand why it is that we're not supposed to do it."***

Implementation Issues

Throughout the public consultation process, many people suggested issues that the provincial government would need to consider if it decides to proceed with a province-wide smoking ban. These issues can be grouped into seven themes as follows:

Guidelines and Definitions

At the end of the consultation process, the Chair of the Advisory Council on Workplace Safety and Health suggested to the Task Force that it would be very useful to develop a set of guidelines or codes of practice to accompany any provincial law that might be drafted. Several other presenters recommended further examination of implementation issues. Many people, both opposed to and supportive of a province-wide ban, commented on the need to define an "enclosed public place" and "indoor workplace" so that the legislation is clear and unambiguous.

Exemptions

Several presenters recommended that the Task Force consider exemptions (most notably for legions, private clubs, personal care homes, and tobacconists who all have unique characteristics) in the event of a province-wide smoking ban. Exemptions for bars were also recommended by some in the hospitality industry because it was felt that, given that these are establishments restricted to adults only, people have a choice whether or not they want to patronize or work in such an establishment.

The majority of presenters argued that the legislation needs to be as clear as possible and free of loopholes in order to withstand legal challenges. Many presenters noted that there are several examples of by-laws that restrict smoking in workplaces and public places, but make exceptions for bars and restaurants. These presenters expressed concern that people who work in those environments continue to be subjected to daily doses of second-hand smoke. Several of these same presenters noted that society does not ask workers in any other industry to decide whether or not they should expose themselves to harmful chemicals in order to earn a paycheck.

"...we have been treating waitresses, waiters, and bartenders as second-class citizens with second-class lungs."

The ceremonial use of tobacco was raised by only a couple of presenters, but it was felt to be an important issue, and one requiring exemption from a ban. One presenter noted that, "although tobacco is part of traditional aboriginal ceremonies, the smoking of cigarettes is not part of aboriginal culture." It was recommended that the ceremonial use of tobacco be exempted from a ban. It was also suggested to the Task Force that further consultation should take place with the aboriginal community, in order to develop an appropriate definition of ceremonial use.

Buffer Zones

A large number of presenters proposed the idea of buffer zones outside all buildings covered under a ban, in order to prevent smoke from drifting back into these buildings, and to prevent the public and employees from having to walk through a cloud of smoke in order to enter them. There was no general agreement as to how large these buffer zones should be, however, or how they should be enforced.

Enforcement

Many people, particularly municipal officials, raised concerns about the existence of limited municipal resources to provide enforcement and questioned who is going to provide it. In Brandon and Winnipeg, by-laws banning indoor smoking are enforced differently. Brandon's by-law is jointly enforced by municipal by-law enforcement officers and city police. In Winnipeg, enforcement is done by provincial and municipal public health inspectors. Both Brandon and Winnipeg have reported compliance rates over 80%.

Many other options were put forward for enforcement - such as workplace health and safety inspectors and liquor inspectors. Several presenters also noted the difficult situation created when community members have to police one other in small communities. Several people questioned what role the provincial government might play in enforcement.

The Task Force's recommendation of a province-wide smoking ban would apply in all enclosed public and indoor workplaces where the provincial government has clear jurisdiction. For example, while provincial jails such as Headingley are governed by provincial policy; federal institutions such as Stony Mountain are governed by federal policy. Other areas of federal responsibility include military bases; First Nations reserves; airports; etc. The Task Force would encourage provincial officials to make other jurisdictions aware of Manitoba's smoking policy.

Communication of the Legislation

Some presenters suggested that in the event of a province-wide smoking ban, it would be important for the government to work with labour and business to communicate the legislation (including expectations and enforcement procedures) with the public, businesses, and employees well in advance of the implementation date.

Support for Cessation

Many presenters indicated that tobacco smoking is a recognized addiction and many people have difficulty stopping. Some of these same presenters argued that an effective ban on smoking should include programs that help smokers in their efforts to quit smoking. To that end, some people suggested the provision of more cessation programs, while others recommended financial support for nicotine replacement therapy (NRT) like Zyban or the Patch. A few people suggested targeting tobacco tax increases to cessation programming.

There was no clear consensus among presenters as to the most effective means of providing support for cessation. Some presenters indicated that there are many options of which NRT is only one (e.g., 1-800 lines can be implemented, or efforts can be made to advertise and connect people more effectively with appropriate programs and services).

> *"A comprehensive approach to smoking cessation is important (e.g., assessment, counseling, pharmacotherapy, ongoing support, and relapse prevention strategies)."*

Addressing Economic Challenges

After pointing out the potential negative economic impacts of a smoking ban on individual workers and businesses, several presenters questioned whether or not there would be an opportunity for them to work with the provincial government to address the economic challenges that are anticipated following a province-wide smoking ban.

5 The Experience of Brandon, Winnipeg & other Canadian Jurisdictions

Brandon

Brandon By-law No. 6696 (see Appendix B), implemented on September 1, 2002, was based on the City of Ottawa's smoking by-law. During debate on the by-law, the issue of exemptions (particularly for bars, lounges and legions) was discussed, as were the issues of ventilation and designated smoking rooms. In the end, Brandon City Council felt that an outright ban on smoking in all public and workplaces with the fewest number of exemptions possible was the best way to protect workers and the public from ETS.

Brandon's by-law prohibits smoking in places designated as public places including, but not limited to places of public assembly, private clubs, restaurants, workplaces, and seating areas at outdoor recreational facilities (see Appendix B for a complete list). Exceptions have been made for the following: home-based businesses; guestrooms in hotels, motels, inns and bed/breakfast facilities; nursing homes; and, designated smoking areas for employees only. See Appendix B for more details about these exceptions.

The by-law was reviewed in January, 2003 and a Council motion to make designated smoking rooms acceptable was narrowly defeated.

In April 2003 the City of Brandon's Corporate Services Public Relations Officer reported to the Task Force that "the public has slowly been adhering to the by-law," and that "now there appears to be more compliance and acceptance of the smoking by-law since the City of Winnipeg will be implementing a total ban on smoking similar to the City of Brandon's." He noted further that "the feeling is that it has got as bad as it will get for businesses and that it has leveled off and that customers and business are beginning to see an upturn in business once again. It now appears to be a non issue since the City of Winnipeg has passed a smoking by-law."

In Spring 2003, Brandon City Council offered the public an opportunity to provide written comments on their experience with the by-law via letter or e-mail. In total 301 submissions were received with an overwhelming majority (89 per cent) in favour of leaving the by-law as written and a smaller number (11 per cent) wanting to either scrap or change the by-law in some way. On June 23, 2003, the City of Brandon Council voted unanimously to let the by-law stand as-is.

Winnipeg

The City of Winnipeg By-law No. 88/2003 (see Appendix C), implemented on September 1, 2003, prohibits smoking in the following places: any enclosed public place (see Appendix C for definition); any motor vehicle used for transportation of persons or property including buses, taxis and limousines; and, any area of a private club or private function to which a member or person has access.

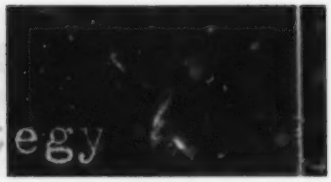
Exceptions have been made for the following: some health care facilities and personal care homes; guest rooms in hotels, motels and inns; and, tobacconist shops. See Appendix C for more details about these exceptions.

Other Jurisdictions in Canada

Several presenters to the Task Force noted that in Canada, approximately 100 communities are currently protected by local smoking ordinances. Several of these municipalities, including Vancouver, Victoria, Sudbury, Sault St. Marie, Waterloo, Ottawa have enacted 100 per cent smoking bans in all workplaces including bars and restaurants. Studies indicate that all these municipal bans are working well. They provide good public health protection from second-hand smoke, and have had no lasting adverse effect on the overall bar and restaurant business (PSFC, 2003).

As noted by the Medical Officer of Health for the Winnipeg Regional Health Authority, "there have been no successful legal challenges to by-laws, no reversal of by-laws that are long standing, and no objective, methodologically sound studies documenting economic harm."

6 Provincial Tobacco Control Strategy



Several presenters cautioned that legislation is only one part of a comprehensive tobacco control strategy. It is important to note, therefore, that there are many activities currently taking place in Manitoba as part of the multi-year provincial tobacco control strategy announced in January, 2002. This comprehensive strategy addresses all four of the nationally identified goals of prevention, protection, cessation, and denormalization of tobacco use. One of the major objectives of the strategy is to prevent youth from starting to smoke, and to encourage young people who are currently smoking to quit. Specific measures targeted at youth include the following:

- Setting up a Youth Advisory Committee;
- Expanding teen cessation programs (delivered through schools);
- Designing mass media campaigns targeted at youth; and,
- Continuing to support the "Enforcement of Sales to Minors" program.

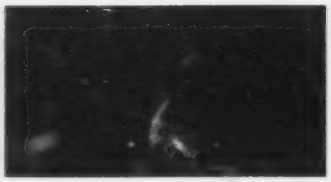
Other components of this multi-faceted strategy include:

- Increasing the sales tax on cigarettes;
- Supporting community prevention initiatives;
- Creating and administering a municipal grants program; and,
- Working with Health Canada and the Canadian Cancer Society to establish a 1-800 smokers help line.

Amendments to the *Non-Smokers Health Protection Act* were passed in the Legislature in August, 2002. These amendments prohibit the display, advertising and promotion of tobacco and tobacco-related products in any place where children are allowed.

In addition to the provincial government's efforts, there are many community and government organizations (e.g., RHAs, schools, municipalities, federal authorities, community groups, and non-government organizations) engaging in efforts to reduce tobacco use in Manitoba. Many presenters noted that provincial smoke-free legislation will complement and support the tobacco control efforts that are currently taking place in this province.

7 Recommendations



The Task Force received the clear message that ETS is a scientifically proven and universally recognized health hazard, and that the public and workers are exposed to harmful levels of ETS where smoking is permitted in enclosed public and indoor workplaces. The Task Force received very little information and advice on the issue of ETS in outdoor public places and workplaces.

As stated previously, the majority (approximately 70 per cent) of the presentations and submissions to the All-Party Task Force on Environmental Tobacco Smoke called on the provincial government to pursue legislation banning smoking in all public and workplaces in Manitoba. However, few of these presenters and submissions made the distinction between indoor and outdoor places, as the Advisory Council on Workplace Safety and Health did. Many people stressed the importance of developing clear, unambiguous legislation, and communicating the details of the legislation with the public in advance of its implementation.

Many people stressed that it is important to remember that the primary goal of such legislation would not be to prevent people (members of the public or workers) from smoking, but to protect the general public and all workers from second-hand smoke.

A large number of presenters (both proponents and opponents of a province-wide ban) felt that in order to create a level playing field across the province, it would be necessary for the provincial government to take leadership on the issue of ETS, rather than leaving it up to municipalities.

Another clear message the Task Force heard from presenters was that effective tobacco control requires a comprehensive approach that includes education, prevention and cessation initiatives, in addition to the protection provided by legislation. The Task Force heard further that it is particularly important to prevent youth from starting to smoke, and to encourage young people who are currently smoking to quit.

The Task Force heard labour and business in several Manitoba municipalities say that they anticipate significant economic impacts similar to those experienced in Brandon, following the implementation of a province-wide smoking ban.

It was recommended to the Task Force that the ceremonial use of tobacco by be exempted from a ban, and that further consultation should take place with the aboriginal community, in order to develop an appropriate definition of ceremonial use.

Based on the information obtained through the public consultation process, the All-Party Task Force on Environmental Tobacco Smoke is making the following six recommendations to the provincial government:

1) ***That the provincial government enact legislation calling for a complete ban of smoking in enclosed public and indoor workplaces where the provincial government has clear jurisdiction;***

2) ***That the legislation come into effect October 1, 2004, and that a public education campaign precede the implementation date;***

3) ***That the provincial government instruct the Department of Health to consult with the Advisory Council on Workplace Safety and Health in order to develop the legislation, which would deal with definitions and enforcement procedures for use in all enclosed public and indoor workplaces;***

4) ***That the provincial government continue to provide appropriate resources to support education, prevention and cessation initiatives, especially those targeted at youth, as part of a comprehensive approach to tobacco control;***

5) ***That the provincial government work closely with the hospitality industry to develop strategies for addressing the anticipated negative economic impacts resulting from a province-wide smoking ban; and,***

6) ***That the ceremonial use of tobacco be exempted from the province-wide ban and that the aboriginal community be consulted on an appropriate definition of ceremonial use***

Recommandations

Le Groupe de travail a reçu un message clair : la fumée ambiante du tabac constitue un risque pour la santé scientifiquement prouvé et universellement reconnu, et le public et les travailleurs sont en contact avec des quantités nocives de fumée ambiante du tabac dans les lieux fermés et les milieux de travail intérieurs où il est permis de fumer. Par contre, le Groupe de travail a reçu très peu d'information et de conseils sur la question de la fumée ambiante du tabac dans les lieux publics et les milieux de travail extérieurs.

Tel que mentionné précédemment, la majorité (environ 70 %) des exposés et mémoires présentés au Groupe de travail sur la fumée secondaire du tabac demandaient au gouvernement provincial d'adopter une loi interdisant le tabac dans tous les lieux publics et milieux de travail de la province. Toutefois, peu de ces exposés et mémoires ont fait la distinction établie par le Conseil consultatif sur la sécurité et l'hygiène au travail entre les endroits extérieurs ou intérieurs. Bon nombre de gens ont souligné l'importance de rédiger une loi claire et exempte de toute ambiguïté, et d'informer le public sur les détails de cette loi avant son application.

Bon nombre de personnes ont souligné l'importance de ne pas oublier que l'objectif premier de cette loi consisterait à ne pas empêcher les gens (membres du public ou travailleurs) de fumer, mais de protéger le grand public et l'ensemble des travailleurs contre la fumée secondaire.

Un grand nombre de personnes (à la fois favorables et opposées à une interdiction) avaient l'impression que pour offrir des chances égales à tous dans l'ensemble de la province, il faudrait que le gouvernement provincial prenne cette question de la fumée ambiante du tabac en main plutôt que de la confier aux municipalités.

Un autre message clair que le Groupe de travail a entendu au cours des exposés, c'est qu'une véritable lutte contre le tabagisme exige une intervention globale qui comporte des initiatives d'éducation, de prévention et d'interruption, outre la protection prévue par la loi. Le Groupe de travail a également pris note du commentaire suivant : il importe tout particulièrement d'empêcher les jeunes de commencer à fumer, et d'inciter les jeunes qui fument à renoncer à cette habitude.

Le Groupe de travail a entendu les syndicats et les entreprises dans plusieurs municipalités du Manitoba dire qu'ils entrevoient des effets économiques importants, semblables à ceux qu'a connus Brandon, si l'interdiction de fumer est appliquée dans l'ensemble de la province.

Il a été recommandé au Groupe de travail que l'usage cérémoniel du tabac échappe à cette interdiction, et que l'on consulte le milieu autochtone pour formuler une définition appropriée de l'usage cérémoniel.

D'après l'information recueillie dans le cadre de ces consultations publiques, le Groupe de travail tripartite sur la fumée secondaire du tabac fait les six recommandations suivantes au gouvernement provincial :

1) ***que le gouvernement provincial édicte une loi exigeant une interdiction absolue du tabac dans tous les lieux publics fermés et milieux de travail intérieurs où le gouvernement provincial a clairement compétence;***

2) ***que cette loi entre en vigueur le 1er octobre 2004, et qu'une campagne de sensibilisation du public précède la date d'entrée en vigueur;***

3) ***que le gouvernement provincial ordonne au ministère de la Santé de consulter le Conseil consultatif sur la sécurité et l'hygiène au travail pour rédiger cette loi, qui comporterait des définitions et qui préciserait les procédures d'application qui seraient en vigueur dans tous les lieux publics fermés et milieux de travail intérieurs;***

4) ***que le gouvernement provincial continue de fournir les ressources appropriées appropriées pour les initiatives d'éducation, de prévention et d'interruption, surtout celles qui visent les jeunes, dans le cadre d'une optique globale de lutte contre le tabagisme;***

5) ***que le gouvernement provincial collabore étroitement avec l'industrie du tourisme d'accueil pour élaborer des stratégies qui permettront de contrer les incidences économiques négatives que l'on entrevoit si l'interdiction de fumer est imposée dans l'ensemble de la province;***

6) ***que l'usage cérémoniel du tabac échappe à l'interdiction provinciale, et que l'on consulte le milieu autochtone pour formuler une définition appropriée de l'usage cérémoniel.***

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Appendix A

ENVIRONMENTAL TOBACCO SMOKE IN THE WORKPLACE:
Recommendations of the Advisory Council on Workplace Safety and Health

Chair: Wally Fox-Decent
May 20, 2003

Principles

1. Environmental Tobacco Smoke (ETS), composed of numerous carcinogens and other toxic compounds, is a scientifically proven, universally recognized health hazard.

2. Workers are exposed to harmful levels of ETS where smoking is permitted in enclosed places.

3. *The Manitoba Workplace Safety & Health Act* specifies that it is the employer's duty to maintain a safe and healthy work environment.

4. The Manitoba regulations specify that exposure to airborne carcinogens must be controlled to as close to zero as practicable.

5. Tobacco smoking is not a work requirement.

6. Exposure to ETS is most readily and easily prevented by eliminating the hazard from the work environment.

7. *The Manitoba Workplace Safety & Health Act* applies to all provincially regulated workplaces equally.

Recommendation

Work towards achieving a complete ban of smoking in all workplaces through a three-stage process:

First stage - A complete ban of smoking in all *enclosed* workplaces, but allowing for the continuation of designated smoking rooms used by workers and/or clients.

- Timeframe: sufficient time should be given for workplaces to accommodate to this new direction- perhaps 6 - 12 months.

Second stage - A complete ban of smoking in all *enclosed* workplaces. This stage does not allow for a designated smoking room - present DSRs would be discontinued.

- Timeframe: a limited time, perhaps 1 - 2 years, is suggested.

Third stage - A complete ban of smoking in *all* workplaces (indoors and outdoors). This final stage moves beyond simply controlling workers' exposure to ETS. It is however, consistent with the public health perspective on smoking.

Appendix B

Brandon By-law No. 6696

BEING A BY-LAW of the City of Brandon to regulate smoking in the City of Brandon.

WHEREAS Subsection 232(1) of The Municipal Act, L.M. 1996, c.58 - Chap. M225 provides inter alia authority for a municipality to pass by-laws respecting the safety, health protection and well-being of people;

AND WHEREAS Subsection 6(1) of The Non-Smokers Health Protection Act S.M. 1989-90, c.S125 provides authority for a municipality to pass a by-law to limit or ban smoking in any enclosed place in the municipality;

AND WHEREAS The City of Brandon has determined that second hand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a risk to the health of the inhabitants and employees of the City of Brandon;

NOW THEREFORE the Council of the city of Brandon duly assembled enacts as follows:

1. This by-law shall be known as the "Smoking By-law".

Definitions

2. Unless the context otherwise requires:

(a) "AMUSEMENT ARCADE" means a place to which the public has access and which is equipped for five (5) more machines or devices that may be used for playing games solely for entertainment and amusement of the players;

(b) "ARENA" means any building, location or premises comprised of, but not restricted to, a rink, floor or ice surface, spectator seating area, dressing rooms and canteen facilities, to which the public has access to view or participate in sporting events;

(c) "ASHTRAY" means a receptacle for tobacco ashes and for cigar and cigarette butts;

(d) "BARBER SHOP" or "HAIRDRESSING ESTABLISHMENT" means any building, location or premises where hair is styled, cut, trimmed, treated or washed;

(e) "BINGO HALL" means any building, location or premises where the conduct of bingo events takes place;

(f) "BUS SHELTER" means any structure intended for use by patrons waiting for public transportation;

(g) "CITY" means the City of Brandon;

(h) "COUNCIL" means the Council of the City of Brandon;

(i) "EMPLOYEE" includes a person who:

(1) performs any work for or supplies any services to an employer; or

(2) received any instructions or training in the activity, business, work, trade, occupation or profession of the employer; or

(3) provides a service under a contractual agreement;

(j) "FOOD COURT" means an indoor area where food or drink is offered for sale or sold to the public for immediate consumption;

(k) "HOME BASED BUSINESS" means the public portion of a private residence;

(l) "INSPECTOR" means any Brandon Police Services Officer, By-law Enforcement Officer associated with Brandon Police Services or any other person authorized and entrusted to enforce this by-law;

(m) "LAUNDROMAT" means any facility, premises or area within a building to which the public has access established for the purposes of laundering, washing or drying of clothes on a self-service basis;

(n) "LICENSED PREMISES" means an establishment licensed by the Manitoba Liquor Control Commission;

(o) "PLACE OF PUBLIC ASSEMBLY" means the whole or part of an indoor area to which the public has access by right or by invitation, express or implied, whether by payment of money or not;

(p) "PRIVATE CLUB" means a not for profit corporate establishment that operates solely for the benefit and pleasure of its members;

(q) "PROPRIETOR" means the corporation, employer, partnership, owner or any person in charge to control, govern or direct the activity carried on within the premises designated as prohibited areas under this by-law and includes the person who is actually in charge thereof at any particular time;

(r) "PUBLIC BUILDING" means any enclosed building or group of buildings to which the public has access;

(s) "PUBLIC FACILITY" means any hall, room or banquet area that is publicly owned and is rented for an event or function;

(t) "PUBLIC PLACE" means the whole part of an indoor area to which the general public is invited or permitted access and includes a school bus;

(u) "PUBLIC RESTROOM" means any restroom or washroom to which the public has access;

(v) "RECEPTION AREA" means the public space used by an office or establishment for the receiving or greeting of customers, clients or other persons dealing with such office or establishment;

(w) "RESTAURANT" means an establishment engaged in the sale and service of food or drink or both food and drink to the public for consumption on the premises;

(x) "RETAIL SHOP" means any building or part of a building, booth, stall, or place where goods and/or services are exposed for sale or offered for sale by retail;

(y) "SCHOOL BUS" means a public vehicle licensed for the purpose of transporting children to and from school or to and from any activity, event or function associated therewith;

(z) "SERVICE LINE" means an indoor/outdoor line of two (2) or more persons awaiting service of any kind regardless of whether or not such service involves the exchange of money, including but not limited to sales, transactions, provisions of information or advice and transfers of money or goods;

(aa) "SHOPPING MALL" means any enclosed building or group of buildings containing one or more retail shops;

(bb) "SMOKE" or "SMOKING" includes carrying a lighted cigar, cigarette, pipe or any other lighted smoking instrument and "smoke" has corresponding meaning; and,

(cc) "WORKPLACE" means any enclosed area of a building or structure in which an employee is employed and includes private office areas, washrooms, corridors, lounges, eating areas, reception areas, elevators, escalators, foyers, hallways, stairways, amenity areas, lobbies, laundry rooms and parking garages utilized by an employee.

General Prohibitions

3. The following are designated public places for the purposes of this by-law:

(a) any area within a public building;

(b) a service line or counter in any premise to which the public has access;

(c) a place of public assembly;

(d) a public restroom;

(e) a food court;

(f) a public facility;

(g) a reception area;

(h) an amusement arcade;

(i) a municipally owned building;

(j) a bingo hall;

(k) a bowling alley;

(l) a billiard hall;

(m) a private club;

(n) a home based business;

(o) any restaurant;

(p) any licensed premises;

(q) any workplace;

(r) an arena;

(s) seating area at any outdoor recreational facility including but not limited to Kinsmen Stadium, Westbran Stadium, Simplot Millenium Park, Optimist Soccer Park;

(t) any retail shop;

(u) a shopping mall;

(v) any laundromat;

(w) any barber shop or hairdressing establishment;

(x) any bus shelter; and,

(y) public transportation including buses, taxicabs, limousines and school buses.

Whereby no person shall smoke in any such designated place.

Exemptions

4. The following are designated exemptions for the purposes of this by-law:

   (a) a private residence or the private portion of a residence housing a home-based business;

   (b) guestrooms in hotels, motels, inns and bed/breakfast facilities;

   (c) an area of a nursing home designated as a smoking area for residents only, ventilated separately so air circulation does not integrate with the atmosphere of the remainder of the facility; and,

   (d) an area of a workplace designated as a smoking area for employees only, ventilated separately so air circulation does not integrate with the atmosphere in the remainder of the facility whereby the room must be fully enclosed (door shut) and located so employees are not required to go through the designated smoking room in order to gain access to a common area or washroom.

Signs

5. The proprietor of any public place or workplace designated or regulated under this by-law shall ensure that a sufficient number of signs are prescribed by Section 7 are conspicuously posted so as to clearly identify that smoking is prohibited.

6. Despite Section 5, in every area referred to in Section 3, the proprietor shall ensure that signs are posted at every entrance to the building and internally, at the sole discretion of the proprietor, as considered adequate to ensure compliance.

7. (a) the signs referred to in this by-law shall consist of graphic symbols that comply with the provisions of this subsection.

(b) the following graphic symbol shall be used to indicated "no smoking" areas:

on a clear/white background with the circle and interdictory stroke in red.

(c) With respect to the size of the graphic symbol referred to in clause (b) the diameter of the circle in the symbol shall be of a size which will make it clearly discernable by persons within the area to which the symbol relates but in any case not less than 100 millimetres.

(d) Notwithstanding the fact that the symbol referred to in clause (b) illustrates a cigarette, it shall include a lighted cigar, cigarette, pipe or any other lighted smoking instrument.

8. No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this by-law.

Ashtrays

9. The proprietor of any facility regulated under this by-law shall ensure that no ashtrays are placed or allowed to remain visible in areas where smoking is prohibited pursuant to this by-law.

Duties

10. No person shall smoke in any area designated as an area where smoking is prohibited pursuant to this by-law.

Offences

11. (a) Any person or proprietor who contravenes any portion of this by-law applicable to them or under their control is guilty of an offence.

(b) Any proprietor who fails to make a reasonable attempt to inform a contravening person of the by-law is guilty of an offence.

11. Any person or proprietor who hinders or obstructs a person lawfully carrying out the enforcement of this by-law is guilty of an offence.

Penalties

13. (a) Any person who contravenes or disobeys or refuses or neglects to obey any provision of this By-law shall be liable, on summary conviction, to a fine of not less than a warning and not exceeding $1,000.00 in the case of an individual or to a fine of not less than a warning and not exceeding $5,000.00 in the case of a proprietor or, at the discretion of the inspector, a penalty in accordance with the City's Compliance By-law.

(b) Where the contravention, refusal, neglect, omission or failure continues for for more than one day, the person or proprietor is liable for a separate offence for each day that it continues.

Enforcement

14. (a) The provisions of this by-law respecting the designation of non-smoking areas, the posting of signs and the duties imposed on the proprietor of a facility shall be enforced by inspectors.

(b) An inspector, upon producing proper identification may, at any reasonable time, enter any designated public place or workplace, building or structure in which a workplace is situated and make examinations, investigations and enquiries for the purposes of determining compliance with this by-law.

(c) No inspector may enter a workplace that is also a dwelling without the consent Of the occupant or without first obtaining and producing a warrant.

Conflicts

15. If a provisions of this by-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive of smoking shall prevail.

Severability

16. If any section or sections of this by-law or parts thereof are found in any court of law to be illegal or beyond the power of Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and to be enacted as such.

Effective Date

17. (a) This by-law shall come into force and take effect on the 1st day of the fourth month following its adoption.

(b) The Council of the City of Brandon shall review the effectiveness, compliance and enforcement of this by-law not later than one year following its coming into effect.

DONE AND PASSED, in Council at the City of Brandon this 27th day of May A.D. 2003.

R.C. Atkinson

MAYOR

H. Ewasiuk

A/CITY CLERK

Read for a first time this 11th day of March A.D. 2002

Read for a second time this 8th day of May A.D. 2002

Read for a third time this 27th day of May A.D. 2002

Appendix C

CITY OF WINNIPEG BY-LAW NO. 88/2003

A By-law of the City of Winnipeg to ban Smoking in public places.

WHEREAS after reviewing the representations and material submitted, council has determined that tobacco smoke is a health hazard, is a nuisance to or detriment to persons, and that it is necessary to protect the safety, health and well-being of persons;

AND WHEREAS *The City of Winnipeg Charter* S.M. 2002, c.39 authorizes Council to enact by-laws respecting, among other things, the protection, safety, health and well-being of people; health hazards; activities or things that in the opinion of Council are or may become a nuisance or detriment to persons or property; and people and activities in, on or near public places open to the public including private clubs;

AND WHEREAS *The Non-Smokers Health Protection Act* S.M. 1989-90, c.S125 authorizes a municipal council to pass a by-law limiting or banning smoking in any enclosed public place in the municipality;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled enacts as follows:

Title

1. This By-law shall be known as "The Smoking Regulation By-law".

Definitions

2. In this By-law

"ashtray" means a receptacle for tobacco ashes and for cigar and cigarette butts;

"enclosed public place" means any part of an enclosed place to which members of the public have access, including, without restricting the generality of the foregoing,

(a) any part of

(i) an office building,

(ii) a retail store or other commercial establishment, or the common areas of a residential building or shopping mall,

(b) a health care facility,

(c) a day care or nursery,

(d) an educational institution or facility,

(e) a restaurant, and

(f) an elevator, pedestrian walkway, pedestrian corridor or pedestrian tunnel or bus shelter;

"health care facility" means a place where a person may receive medical examination, treatment or care, and includes a hospital, hospice, clinic and medical practitioner's office;

"licensed premises" means licensed premises as defined in *The Liquor Control Act*;

"personal care home" means a personal care home as defined in *The Health Service Insurance Act* and regulations;

"private function" means a specific event for which an enclosed room or hall or a portion thereof has been reserved and at which attendance is limited to people who have been specifically invited, permitted or designated by the host, whether or not an admission fee is charged and regardless of the purpose for which the event is held, but excluding private residences;

"proprietor" means the owner of an enclosed public place, private club, tobacconist shop or the premises in which a private function is held and includes a person who carries on or manages the activities carried on in any of these places and includes the person present who is in charge at any particular time;

"restaurant" includes any part of a coffee shop, cafeteria, sandwich stand, food court or other eating establishment that is located in an enclosed public place and is open to member of the public, whether or not it is licensed premises or a portion of licensed premises;

"shopping mall" means a complex of commercial establishments designed for the sale of goods or services or both to members of the public;

"smoke" & "smoking" means

(a) smoking a cigarette, cigar, pipe or other device used for smoking tobacco; or

(b) carrying or having control of a lighted cigarette, cigar, pipe or other device used for smoking tobacco;

"smoking area" means an area marked and identifiable by a sign indicating that smoking is permitted in that area;

"tobacco product" means tobacco leaves and any product manufactured from tobacco that is intended to be used for smoking, inhaling or chewing and includes nasal and oral snuff, cigarette paper, tubes, pipes and filters;

"tobacconist shop" means any business that manufactures, sells or distributes tobacco products only;

Smoking Prohibited

3. Subject to Section 4 no person shall smoke in, and no proprietor shall permit any person to smoke in:

   (a) any enclosed public place;

   (b) any motor vehicle used for the public transportation of persons or property including buses, taxis and limousines;

   (c) any area of a private club or private function to which a member or person invited has access;

Exceptions

4. A proprietor may allow smoking in

   (a) an area of a health care facility, or personal care home designated by the board of the health care facility or personal care home and for use by residents or in-patients of the facility or home only;

   (b) guest rooms in hotels, motels and inns;

   (c) any tobacconist shop;

   provided that the area, room or tobacconist shop is physically separated and enclosed by a ceiling and floor to ceiling walls and doors from any adjacent or attached enclosed public place, private club; or private function.

Drifting Smoke

5. No person or proprietor shall permit smoke to drift or be recirculated into an enclosed public place, private club, or private function.

Signs

6. (a) In every enclosed public place, motor vehicle, private club, or private function to which this By-law applies, a proprietor shall clearly and conspicuously post and keep in place at all times a sufficient number of signs as prescribed by Section 7, which signs shall be clearly visible.

(b) The signs referred to in this By-law shall be posted in such number of places as, having regard to size of the printed text or symbol thereon and the place of posting, will give every person in the place or area to which the sign relates, a clear and unobstructed view of at least two of the signs.

(c) No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to this By-law.

7. The requirements of section 6 shall be met by either:

(a) posting a sign that

(i) carries the text "no smoking" in capital or lower case letters or a combination thereof, either alone or in conjunction with other words which do not detract from the purpose of the sign or indicating a place or area in which smoking is prohibited;

(ii) consists of at least two (2) contrasting colours which make the text of the sign clearly legible in whatever lighting is used in the place or area in which the sign is posted or if the text is to be applied directly to a surface or to be mounted on a clear panel. Set the text out in a colour which contrasts with the background so that the text is clearly legible in whatever lighting is used in the place or area; and

(iii) sets the text out in letters of such style and size and be posted in such places as will make them clearly legible to persons within the place or area in which the smoking is prohibited, but in any case the text shall not be less than 28 millimetres in height; or

(b) (i) posting a sign consisting of the following graphic symbol that shall be used to indicate "no smoking" areas:

on a white background with the circle and interdictory stroke in red and the diameter of the circle in the symbol shall be of such size as will make it clearly discernable by persons within the place or area to which the symbol relates but in any case not less than 100 millimetres in size.

(ii) notwithstanding that the symbol in clause (a) illustrates a cigarette, it shall also refer to and represent a lighted cigar or pipe.

Ashtrays

8. A proprietor shall ensure that no ashtrays or similar receptacles are placed or allowed to remain in any area in which smoking is prohibited pursuant to this By-law.

Enforcement

9. The Director of Community Services and his/her delegates may conduct inspections and take steps to administer and enforce this By-law or remedy a contravention of this By-law in accordance with The City of Winnipeg Charter and for those purposes, have the powers of a "designated employee" under The City of Winnipeg Charter.

Penalties

10. A person or proprietor who contravenes a provision of this By-law is guilty of an offence and is liable on summary conviction to the following penalties:

    (a) for a first offence, to a fine of not less than One Hundred ($100.00) Dollars in the case of an individual and Five Hundred ($500.00) Dollars in the case of a corporation or partnership;

    (b) for a second offence, to a fine of not less than Two Hundred ($200.00) Dollars in the case of an individual and Seven Hundred ($700.00) Dollars in the case of a corporation or partnership;

    (c) for a third offence or subsequent offence, to a fine of not less than Three Hundred ($300.00) Dollars in the case of an individual and One Thousand ($1,000.00) Dollars in the case of a corporation or partnership.

Severability

11. A decision of a Court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness or enforceability of the other provisions or parts of the provisions of this By-law.

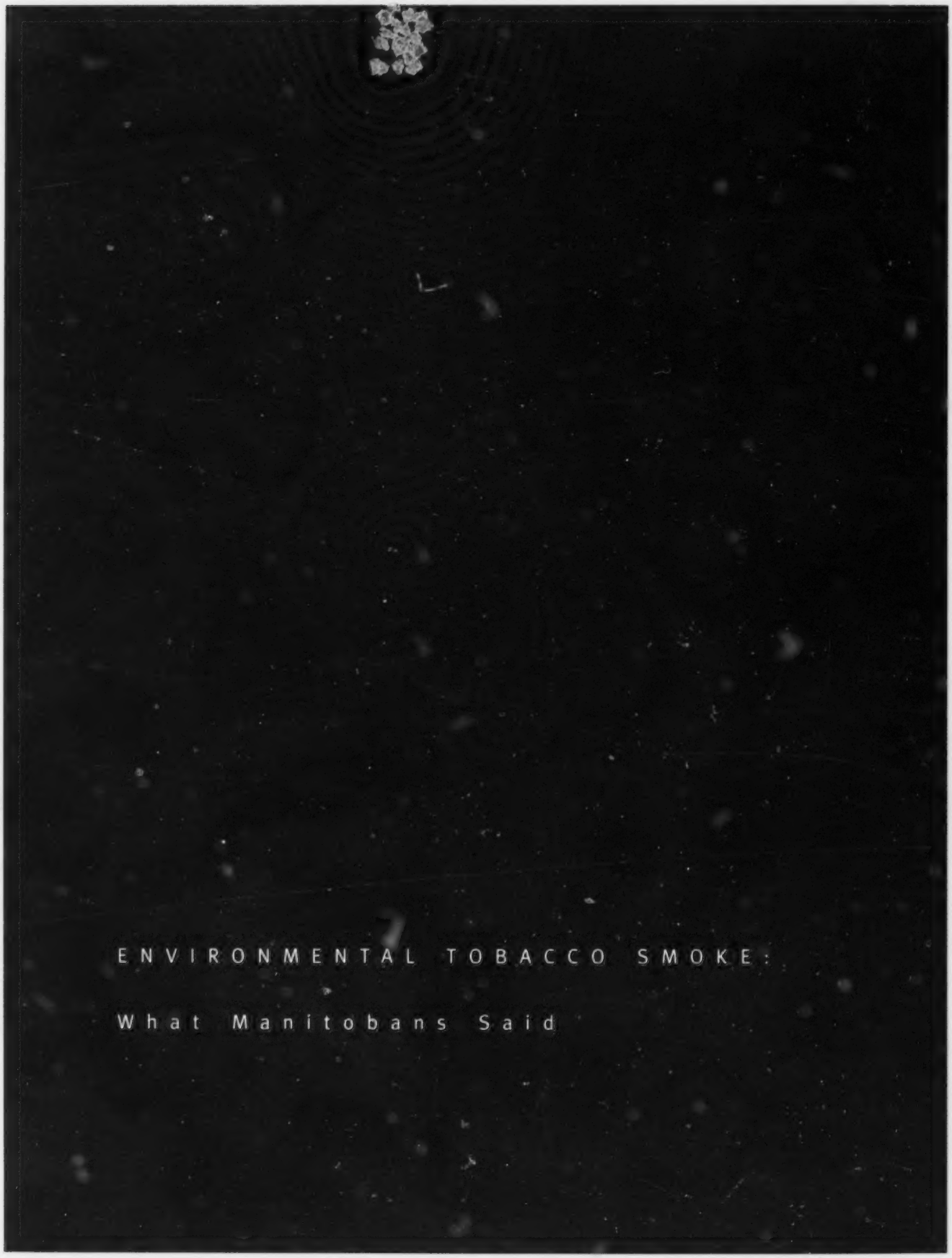
Repeal

12. By-law No. 7870/2001 is repealed.

Effective Date

13. This by-law comes in to force on July 1, 2003.

DONE AND PASSED in Council assembled this 30th day of April A.D., 2003.


ENVIRONMENTAL TOBACCO SMOKE:
What Manitobans Said